

# In the United States Court of Federal Claims

OFFICE OF SPECIAL MASTERS

No. 15-444V

Filed: September 11, 2015

Unpublished

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ELIZABETH BELL,	*	
	*	
Petitioner,	*	Ruling on Entitlement; Concession;
	*	Influenza (“Flu”) Vaccine; Shoulder
	*	Injury Related to Vaccine Administration
SECRETARY OF HEALTH	*	(“SIRVA”); Special Processing Unit
AND HUMAN SERVICES,	*	(“SPU”)
	*	
Respondent.	*	
	*	

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*Glenn Bowens, Bowens Law Firm, Winnsboro, SC, for petitioner.*

*Douglas Ross, U.S. Department of Justice, Washington, DC, for respondent.*

## RULING ON ENTITLEMENT<sup>1</sup>

**Dorsey**, Chief Special Master:

On May 1, 2015, Elizabeth Bell filed a petition for compensation under the National Vaccine Injury Compensation Program, 42 U.S.C. §300aa-10, *et seq.*,<sup>2</sup> [the “Vaccine Act” or “Program”]. Petitioner alleges that as a result of an influenza [“flu”] vaccination on September 14, 2010, she suffered a shoulder injury.<sup>3</sup> Petition at 1. The case was assigned to the Special Processing Unit of the Office of Special Masters.

On September 10, 2015, respondent filed her Rule 4(c) report in which she concedes that petitioner is entitled to compensation in this case. Respondent’s Rule 4(c) Report at 2-4. Specifically, respondent indicates that she has “concluded that

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<sup>1</sup> Because this unpublished ruling contains a reasoned explanation for the action in this case, I intend to post it on the United States Court of Federal Claims’ website, in accordance with the E-Government Act of 2002, Pub. L. No. 107-347, § 205, 116 Stat. 2899, 2913 (codified as amended at 44 U.S.C. § 3501 note (2006)). In accordance with Vaccine Rule 18(b), petitioner has 14 days to identify and move to redact medical or other information, the disclosure of which would constitute an unwarranted invasion of privacy. If, upon review, I agree that the identified material fits within this definition, I will redact such material from public access.

<sup>2</sup> National Childhood Vaccine Injury Act of 1986, Pub. L. No. 99-660, 100 Stat. 3755. Hereinafter, for ease of citation, all “§” references to the Vaccine Act will be to the pertinent subparagraph of 42 U.S.C. § 300aa (2012).

<sup>3</sup> As noted by respondent, the “petition was filed within a year of dismissal (on December 29, 2014) of an action filed on September 6, 2013, within three years of vaccination, in South Carolina State Court, so the filing of the petition here is timely.” Respondent’s Rule 4(c) Report filed September 10, 2015 at 1.

petitioner suffered a non-Table injury of SIRVA [a shoulder injury related to vaccine administration] and that the preponderance of the medical evidence indicates that the injury was causally related to the flu vaccination petitioner received on September 14, 2010.” *Id.* at 3-4. Additionally, respondent indicates that she “did not identify any other causes for petitioner’s SIRVA,” and that “petitioner met the statutory requirements by suffering the condition for more than six months.” *Id.* at 4.

**In view of respondent’s concession and the evidence before me, I find that petitioner is entitled to compensation.**

**IT IS SO ORDERED.**

**s/Nora Beth Dorsey**

Nora Beth Dorsey  
Chief Special Master